ORDINANCE NO.

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 3510 AND 4003 BEN GARZA LANE FROM SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT TO COMMUNITY COMMERCIAL-MIXED USE-CONDITIONAL OVERLAY (GR-MU-CO) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from single family residence standard lot (SF-2) district to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district on the property described in Zoning Case No C14-06-0181, on file at the Neighborhood Planning and Zoning Department, as follows

Tract A, Garza Place Section 1 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 43, Page 21, of the Plat Records of Travis County, Texas (the "Property"),

locally known as 3510 and 4003 Ben Garza Lane, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A"

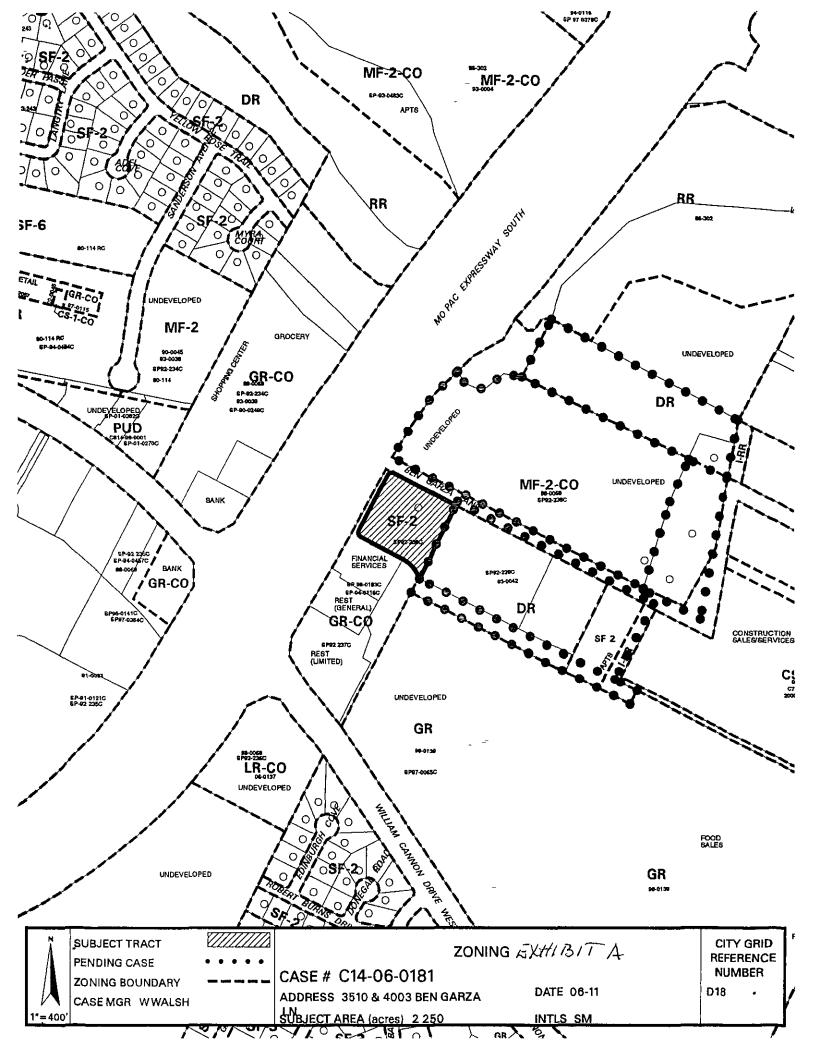
PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions

A The following uses are prohibited uses of the Property

Automotive rentals. Automotive repair services
Automotive sales Automotive washing (of any type)
Exterminating services Funeral services
Pawn shop services Service station

A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day

PART 3. This c	ordinance takes effect on	1		, ?
PASSED AND	APPROVED			
	, 2007	§ § §		
		3	Will Wynn Mayor	
APPROVED: _		ATTEST:		
	David Allan Smith City Attorney		Shirley A Gentry City Clerk	



RESTRICTIVE COVENANT

OWNERS The Earl McComis Revocable Living Trust,

Rancho Garza, Ltd, a Texas limited partnership,

Rancho Garza II, Ltd, a Texas limited partnership,

The Estate of Eli J Garza

ADDRESS See Below

CONSIDERATION Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid

by the City of Austin to the Owner, the receipt and sufficiency of which is

acknowledged

PROPERTY Tract A, Garza Place Section 1 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 43, Page

21, of the Plat Records of Travis County, Texas

Lot 1, Bock E, Garza Ranch Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 90, Page

6, of the Plat Records of Travis County, Texas

A 7 695 acre tract of land, more or less, out of the Thomas Anderson League, Survey No 17, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant, and

A 1 55 acre tract of land, more or less, out of the Thomas Anderson League, Survey No 17, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant, and

A 5 40 acre tract of land, more or less, out of the Thomas Anderson League, Survey No 17, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "C" incorporated into this covenant, and

A 3 07 acre tract of land, more or less, out of the Thomas Anderson League, Survey No 17, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "D" incorporated into this covenant,

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions,

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns

The total number of units in all stand-alone multifamily residential structures may not exceed 450 residential units

- 2 If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions
- If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect
- 4 If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it
- 5 This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination
- 6 This Restrictive Covenant may be executed in any number of counterparts, each of which is deemed to be an original, and all of which are identical

deemed to be an original, ar	id all of which a	are identical
EXECUTED this the	day of	, 2007
	C	OWNERS:
	Т	The Earl McComis Revocable Living Trust
	В	Marcella Calhoun, Co-Successor Trustee Address 113 Prairie Hill Dr Dale, TX 78616
	В	Sheila Otterpohl, Co-Successor Trustee Address 15200 Flamingo Drive North Austin, TX 78734
	В	Teresa Touchstone, Co-Successor Trustee Address 404 Sinclaire

Spicewood, TX 78669

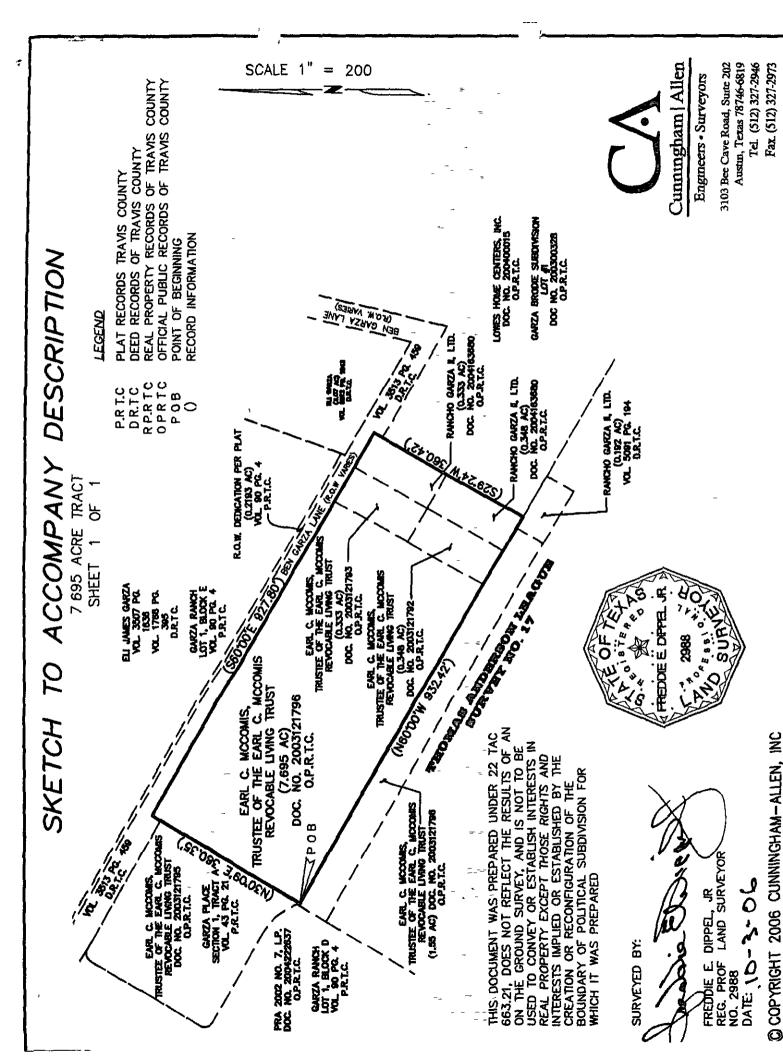
Rancho Garza, Ltd., a Texas limited partnership

	Ву	Rancho Garza Investments, Inc , a Texas corporation, General Partner
		ByRon White, President
		no Garza II, Ltd., as limited partnership
	Ву	Rancho Garza Investments, Inc, a Texas corporation, General Partner
		By Ron White, President
	The E	state of Elı J Garza,
	Ву	Ronald Harry White, Independent Co-Executor
		Address 17830 Serene Hills Pass Austin, TX 78738
APPROVED AS TO FORM		
Assistant City Attorney City of Austin		

THE STATE OF TEXAS	§	
COUNTY OF TRAVIS	§	
This instrument was ack 2007, by Marcella Calhoun, Co-	nowledged Successor T	before me on this the day of
		Notary Public, State of Texas
THE STATE OF TEXAS	§	
COUNTY OF TRAVIS	.	
This instrument was ack 2007, by Sheila Otterpohl, Co-S	nowledged uccessor Tr	before me on this the day of, ustee of the Earl McComis Revocable Living Trust
		Notary Public, State of Texas
THE STATE OF TEXAS	§	
COUNTY OF TRAVIS	§	
This instrument was ack 2007, by Teresa Touchstone, C Trust	nowledged Co-Successo	before me on this theday of, or Trustee of the Earl McComis Revocable Living
		Notary Public, State of Texas

THE STATE OF TEXAS	§
COUNTY OF TRAVIS	§
2007, by Ron White, Preside Partner of Rancho Garza, Lt	acknowledged before me on this the day of, ent of Rancho Garza Investments, Inc , a Texas corporation, General d , a Texas limited partnership and General Partner of Rancho Garza nership, on behalf of the corporation and the partnerships
	Notary Public, State of Texas
THE STATE OF TEXAS	§
COUNTY OF TRAVIS	§
	acknowledged before me on this theday of, te, Independent Co-Executor of the Eli J Garza Trust
	Notary Public. State of Texas

After Recording, Please Return to
City of Austin
Department of Law
P O Box 1088
Austin, Texas 78767
Attention Diana Minter, Legal Assistant



MENT PARTA BALMY TON

C14-06-0197

EXHIBIT "B" Page 1 of 2

I 55 Acre Tract Thomas Anderson League, Survey No 17 Travis County, Texas

DESCRIPTION

DESCRIPTION OF 1 55 ACRES OF LAND SITUATED IN THE THOMAS ANDERSON LEAGUE, SURVEY NO 17 IN TRAVIS COUNTY, TEXAS, BEING THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO EARL C MCCOMIS, TRUSTEE OF THE EARL C MCCOMIS REVOCABLE LIVING TRUST OF RECORD IN DOCUMENT NO 2003121796, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS SAVE AND EXCEPT THAT CERTAIN TRACT OF LAND SAID TO CONTAIN 0 192 OF ONE ACRE OF LAND DESCRIBED IN DEED TO RANCHO GARZA II, LTD IN VOLUME 5091, PAGE 194, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 1 55 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

The courses and distances shown hereon are based on record data contained in Document No 2003121796, of the Official Public Records of Travis County, Texas

BEGINNING at a point for the westernmost northeast corner of Lot 1, Block D, Garza Ranch Subdivision of record in Volume 90, Page 4 of the Plat Records of Travis County, Texas, and for the northwest corner and POINT OF BEGINNING of the herein described tract,

THENCE with the south line of that certain tract of land said to contain 7 695 acres of land, described in deed to Earl C McComis, Trustee of The Earl C Mccomis Revocable Living Trust in Document No 2003121796, of the Official Public Records of Travis County, Texas, and the north line of the herein described tract, S60°00'E a distance of 1037 55 feet to a point in the south line of Lot 1, Garza Brodie Subdivision of record in Document No 200300328 of the Official Public Records of Travis County, Texas, an ell point in the north line of HEB / #23 Subdivision of record in Volume 100, Page 327 of the Plat Records of Travis County, Texas, and the northeast corner of said Rancho Garza II, Ltd tract, for the northeast corner of the herein described tract,

THENCE with the east line of said Rancho Garza II, Ltd tract, a west line of said H E B / #23 Subdivision, and the east line of the herein described tract, S30°00'W a distance of 65 00 feet to an ell point in the north line of said H E B / #23 Subdivision, and the southeast corner of said Rancho Garza II, Ltd tract, for the southeast corner of the herein described tract,

THENCE with the south line of said Rancho Garza II, Ltd tract, the north line of said HEB / #23 Subdivision, and the south line of the herein described tract, N60°00'W a distance of 1037 55 feet to a point in the east line of said Lot 1, Block D, and the northwest

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corner of said HEB / #23 Subdivision, for the southwest corner of the herein described tract,

THENCE with the east line of said Lot 1, Block D, and the west line of the herein described tract, N30°00'E a distance of 65 00 feet to the POINT OF BEGINNING, containing 1 55 acres of land, more or less, within these metes and bounds

Reference is herein made to the sketch companying this metes and bounds description

This Document was prepared under 22 TAC §663 21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared

CUNNINGHAM-ALLEN, INC

Freddie E Dippel, Jr

Registered Professional Land-Surveyor No 2988

Date (0-3-06

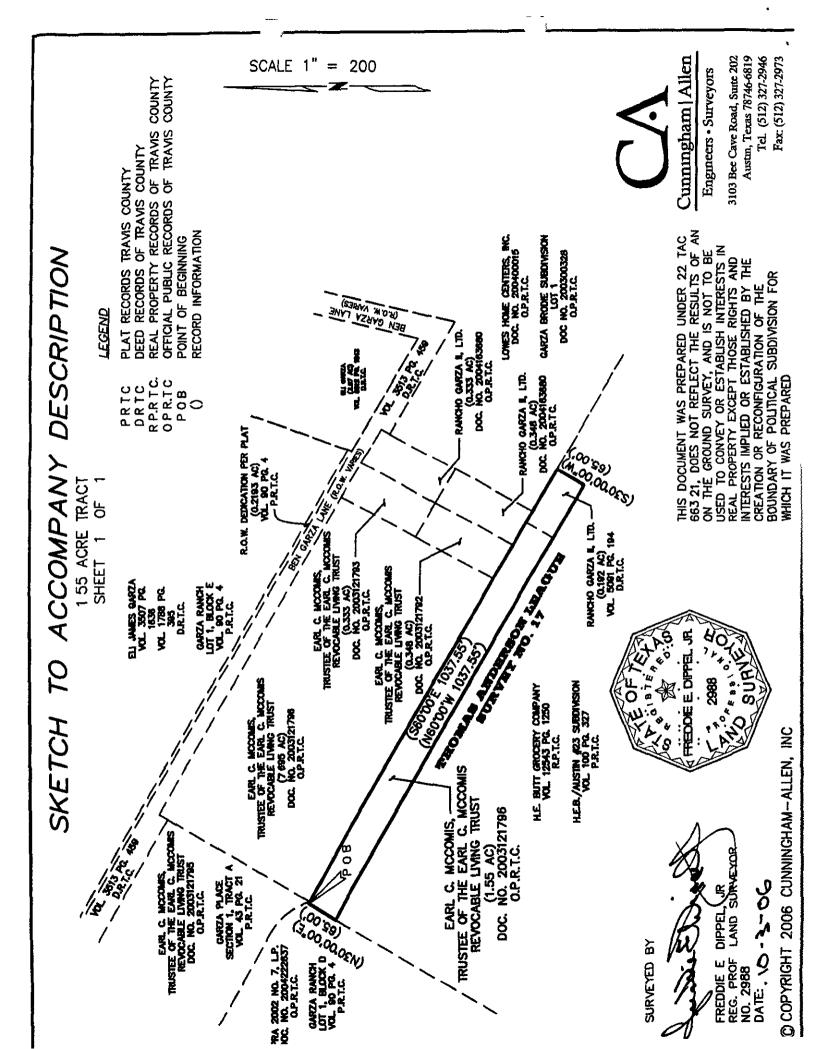


EXHIBIT "C"
Page 1 of 2

5 40 Acre Tract Thomas Anderson League, Survey No 17 Travis County, Texas

DESCRIPTION

DESCRIPTION OF 5 40 ACRES OF LAND SITUATED IN THE THOMAS ANDERSON LEAGUE, SURVEY NO 17 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO ELI JAMES GARZA OF RECORD IN DOCUMENT NO 2004018557, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 5 40 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

The courses and distances shown hereon are based on record data contained in Document No 2004018557, of the Official Public Records of Travis County, Texas

BEGINNING at a point for the northeast corner of Lot 2, Block E, Garza Ranch Subdivision of record in Volume 90, Page 4 of the Plat Records of Travis County, Texas, in a south line of that certain tract of land described in deed to the City of Austin in Volume 12593, Page 3440 of the Real Property Records of Travis County, Texas, for the northwest corner and POINT OF BEGINNING of the herein described tract,

THENCE with a south line of said City of Austin tract, and the north line of the herein described tract, S59°24'E a distance of 892 69 feet to a point for the southeast corner of said City of Austin tract, the southwest corner of that certain tract of land described in deed to Harold G Kennedy and Wife, B Joy Kennedy in Volume 4026, Page 1507 of the Deed Records of Travis County, Texas, and the northwest corner of that certain tract of land described in deed to Ben Garza in Volume 460, Page 564 of the Deed Records of Travis County, Texas, for the northeast corner of the herein described tract,

THENCE with the west line of said Ben Garza tract, and the east line of the herein described tract, S13°23'W a distance of 251 02 feet to a point for the northeast corner of certain tract of land said to contain 3 07 acres of land described in deed to Eli Garza in Volume 6512, Page 1843 of the Deed Records of Travis County, Texas, for the southeast corner of the herein described tract.

THENCE with the north line of said 3 07 acre tract, and the south line of the herein described tract, N60°58'W a distance of 964 54 feet to a point in the north line of Lot 1, Block E, Garza Ranch Subdivision of record in Volume 90, Page 4 of the Plat Records of Travis County, Texas, and the southeast corner of said Lot 2, Block E, for the southwest corner of the herein described tract,

THENCE with the east line of Lot 2, Block E, and the west line of the herein described tract, N30°E a distance of 266 25 feet to the POINT OF BEGINNING, containing 5 40 acres of land, more or less, within these metes and bounds

Reference is herein made to the sketch companying this metes and bounds'description

This Document was prepared under 22 TAC §663 21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared

CUNNINGHAM-ALLEN, INC

Freddie E Dippel, Jr

Registered Professional Land Surveyor No 2988

Date 10-2-06

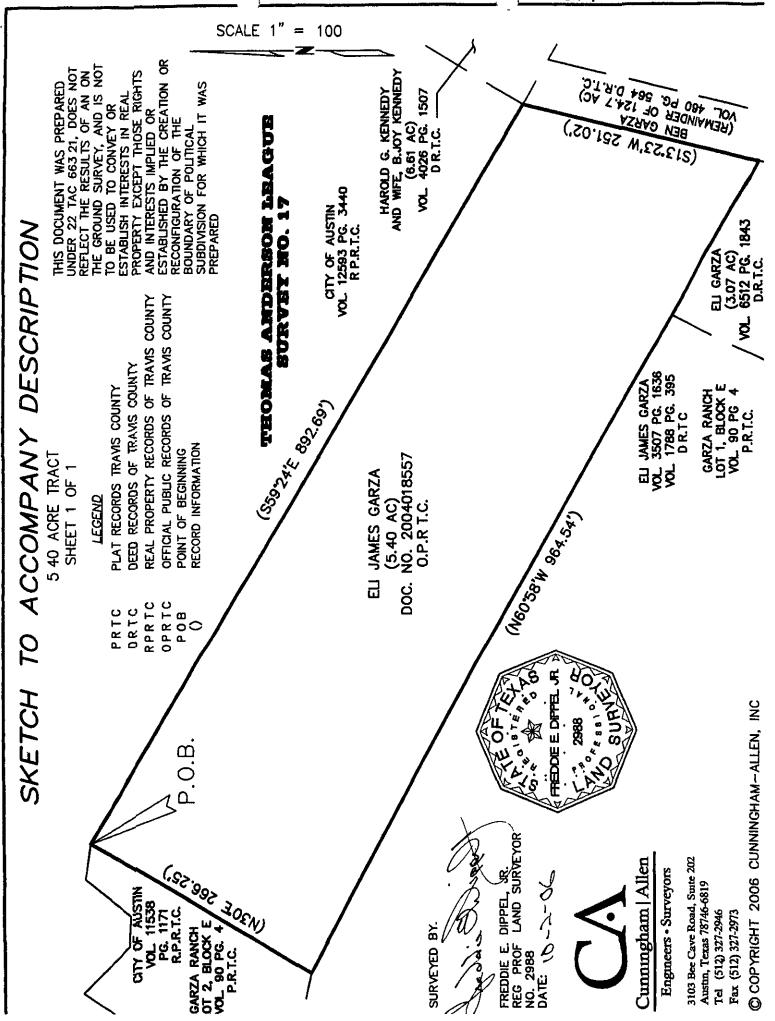


EXHIBIT "D" Page 1 of 2

Thomas Anderson League, Survey No 17
Travis County, Texas

DESCRIPTION

DESCRIPTION OF 3 07 ACRES OF LAND SITUATED IN THE THOMAS ANDERSON LEAGUE, SURVEY NO 17 IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO ELI GARZA OF RECORD IN VOLUME 6512, PAGE 1843 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 3 07 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

The courses and distances shown hereon are based on record data contained in Volume 6512, Page 1843 of the Deed Records of Travis County, Texas

BEGINNING at a point for the southeast corner of that certain tract of land said to contain 5 40 acres described in deed to Eli James Garza of record in Document No 2004018557, of the Official Public Records of Travis County, Texas, in a west line of that certain tract of land said to contain 124 7 acres of land described in deed to Ben Garza of record in Volume 460, Page 564 of the Deed Records of Travis County, Texas, for the northeast corner and POINT OF BEGINNING of the herein described tract,

THENCE with a west line of said Ben Garza tract, and the east line of the herein described tract, \$13°23'W a distance of 596 01 feet to an ell point in the north right-of-way line of Ben Garza Lane, (right-of way varies) of record in Volume 3513, Page 459 of the Deed Records of Travis County, Texas, for the southeast corner of the herein described tract,

THENCE with the north line of said Ben Garza Lane, and the south line of the herein described tract, N60°00'W a distance of 272 06 feet to a point for the southeast corner of Lot 1, Block E, Garza Ranch Subdivision of record in Volume 90, Page 4 of the Plat Records of Travis County, Texas, for the southwest corner of the herein described tract,

THENCE with the east line of said Lot 1, Block E, and the west line of the herein described tract, the following two (2) courses and distances

- 1 N19°41'W a distance of 382 00 feet to a point,
- 2 N26°31'W a distance of 192 58 feet to a point in the south line of said 5 40 acre tract, for the northeast corner of said Lot 1, Block E, and the northwest corner of the herein described tract,

THENCE with the south line of said 5 40 acre tract, and the north line of the herein described tract, S60°58'E a distance of 181 96 feet to the POINT OF BEGINNING, containing 3 07 acres of land, more or less, within these metes and bounds

Reference is herein made to the sketch companying this metes and bounds description

This Document was prepared under 22 TAC §663 21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared

CUNNINGHAM-ALLEN, INC

Freedie E Dippel, Jr

Registered Professional Land Surveyor No 2988

Date 10-2-06

3 07 ACRE TRACT SHEET 1 OF 1 THIS DOCUMENT WAS PREPARED UNDER 22 TAC 663 21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH ELI JAMES GARZA INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND (5 40 AC) INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR DOC NO. 2004018557 RECONFIGURATION OF THE BOUNDARY OF POLITICAL O.PRTC. SUBDIVISION FOR WHICH IT WAS PREPARED P.O.B. (S60.58'E 181.96') **LEGEND** PLAT RECORDS TRAVIS COUNTY P.R.T.C DRTC DEED RECORDS OF TRAVIS COUNTY RPRTC REAL PROPERTY RECORDS OF TRAVIS COUNTY OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY OPRTC POB POINT OF BEGINNING CARZA OF 724 364 24 () RECORD INFORMATION VOL 480 PC OF ELI JAMES GARZA VOL. 3507 PG. 1636 VOL. 1788 PG. 395 D.R.T.C. GARZA RANCH LOT 1, BLOCK E VOL. 90 PG 4 P.R.T.C. 11 8 ELI GARZA (3.07 AC) VOL. 6512 PG. 1843 D.R.T.C. R.O W DEDICATION PER PLAT (0 2193 AC) VÒL. 90 PG. 4 P.R.T C. SURVEYED BY <u>*</u> 0 / FREDDIE E DIPPEL. JR REG. PROF LAND SURVEYOR NO. 2988 グーので DATE 3103 Bee Cave Road, Suite 202 Austin, Texas 78746-6819 Tel (512) 327-2946 Cunningham | Allen Engineers • Surveyors Fax (512) 327-2973 @ COPYRIGHT 2006 CUNNINGHAM-ALLEN, INC

2,37,25

TRACT1.dwg

Drawings/ZDNING

SKETCH TO ACCOMPANY DESCRIPTION